



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,687	07/23/2001	Matthew W. Brown SR.	43638	2542

7590 01/03/2005
Micah Goldsmith
33941 Crystal Lantern St.
Dana Point, CA 92629

EXAMINER

CHEN, SHIN HON

ART UNIT	PAPER NUMBER
----------	--------------

2131

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/910,687

Applicant(s)

BROWN, MATTHEW W.

Examiner

Shin-Hon Chen

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 0202 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-45 have been examined.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 12, and 14 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Montgomery U.S. Pub. No. 20020141590 (hereinafter Montgomery).

3. As per claim 1, Montgomery discloses a method for distributing a digital media comprising: establishing a connection between a client and a server (Montgomery: [0009]); requesting said digital media with said client (Montgomery: [0009]); obtaining said digital media with said server (Montgomery: [0009], [0013]-[0018]); delivering said digital media from said server to said client across a network connection (Montgomery: [0009], [0013]-[0017]), wherein said digital media comprises an encapsulated packet having a security item and at least a portion of said digital media (Montgomery: [0016]-[0017]).

4. As per claim 2, Montgomery discloses the method of claim 1. Montgomery further discloses wherein said packet further comprises: a header and a payload, wherein said payload comprises said portion of said digital media and said header comprises said security item (Montgomery: [0034] and figure 2B).

Art Unit: 2131

5. As per claim 3, Montgomery discloses the method of claim 2. Montgomery further discloses wherein said digital media data item is a video stream or an audio stream (Montgomery: [0001]).

6. As per claim 12, Montgomery discloses the method of claim 2. Montgomery further discloses the transmission method can be applied to MPEG format data and other types of data (Montgomery: [0004]).

7. As per claim 14, Montgomery discloses the method of claim 1. Montgomery further discloses wherein said step of obtaining further comprises: authenticating said client and denying access to said digital media if said client is not authenticated (Montgomery: [0009]).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Croix U.S. Pub. No. 20040205735 (hereinafter Croix).

Art Unit: 2131

10. As per claim 4, Montgomery discloses the method of claim 2. Montgomery does not explicitly disclose wherein said security item is a triple DES rolling code encryption key.

However, Croix discloses using rolling keys for encryption and decryption procedures (Croix: [0044]). It would have been obvious to one having ordinary skill in the art to use the rolling key when a packet has been sent so that the rolling key can be changed periodically and the use of triple DES algorithm is a design choice. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Croix within the system of Montgomery because rolling keys can be utilized for enhanced security.

11. As per claim 5, Montgomery as modified discloses the method of claim 4. Montgomery as modified further discloses the method comprising: modifying said encryption key at a regular interval (Montgomery: [0037]).

12. As per claim 6, Montgomery as modified discloses the method of claim 5. Montgomery as modified does not explicitly disclose wherein said interval is a 45 millisecond interval. However, Montgomery discloses the interval varies based on the key length (Montgomery: [0037]). Therefore, it would have been an obvious matter of design choice to modify the teachings of Montgomery to set the interval to 45 millisecond. Since setting the interval to 45 millisecond does not solve any specific problem or is for any particular purpose, it seems setting the time interval based on the key length would work equally well.

Art Unit: 2131

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Croix and further in view of Furuta et al. U.S. Pat. No. 5733047 (hereinafter Furuta).

14. As per claim 7, Montgomery as modified discloses the method of claim 5. Montgomery as modified further discloses wherein said step of modifying further comprises: modifying according to any algorithm (Croix: [0044]). Montgomery as modified does not explicitly disclose incrementing said encryption key by a single binary bit. However, Furuta discloses incrementing the rolling code by one (Furuta: column 4 lines 35-49). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to increment the rolling code by one bit in a digital data transmission system. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Furuta within the combination of Montgomery-Croix because rolling code by one bit is well known in the art.

15. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery.

16. As per claim 8-11, Montgomery as discloses the method of claim 1. Montgomery does not explicitly disclose wherein said client comprises a general purpose computer or personal data assistant, set-top box, or a web-enabled cellular phone. However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to utilize any communication means to carry out the transmission method.

17. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Woelfel et al. U.S. Pat. No. 20030028620 (hereinafter Woelfel).

18. As per claim 13, Montgomery discloses the method of claim 1. Montgomery does not explicitly disclose wherein said step of obtaining further comprises: accessing a second server having a database wherein said digital media resides in said database. However, Woelfel discloses an intermediary data server that obtains data from another server and pass the data to a receiver (Woelfel: [0009]-[0016]). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Woelfel within the system of Montgomery because it prevents unauthorized users to directly access data stored in a database.

19. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Johnson et al. U.S. Pat. No. 6052469 (hereinafter Johnson).

20. As per claim 15, Montgomery discloses the method of claim 1. Montgomery does not explicitly disclose the method comprising: varying a length of said security item depending upon a geographic location of said client. However, Johnson discloses that limitation (Johnson: column 18 line 63 – column 19 line 11). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to combine the teachings of Johnson within the system of Montgomery because it is well known in the art to use different key length in different countries according to regulation.

Art Unit: 2131

21. Claims 16-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Croix and further in view of Furuta and further in view of Woelfel and further in view of Johnson.

22. As per claim 16-45, claims 16-45 encompass the same scope as claims 1-16. Therefore, claims 16-45 are rejected based on the reasons set forth in rejecting claims 1-15.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gray et al. U.S. Pat. No. 5805705 discloses synchronization of encryption/decryption keys in a data communications network.

Van Rijnsoever U.S. Pat. No. 6766451 discloses packet header comprises information indicating a change of the decryption of key.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Hon Chen whose telephone number is (571) 272-3789. The examiner can normally be reached on Monday through Friday 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2131

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shin-Hon Chen
Examiner
Art Unit 2131

SC

E. Moise
EMMANUEL L. MOISE
PRIMARY EXAMINER